



December 14, 2016

Christina Arias, PE  
California Regional Water Quality Control Board, San Diego Region

**Subject: Comment – Tentative Order No. R9-2016-0205 (786088 C.Arias)**

Dear Ms. Arias:

On behalf of the California Stormwater Quality Association (CASQA), thank you for the opportunity to provide comments on Tentative Order No. R9-2016-0205, Investigative Order Directing the Owners and Operators of Phase I Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region to Submit Technical and Monitoring Reports Pertaining to the Control of Trash From Phase I MS4s to Ocean Waters, Inland Surface Waters, Enclosed Bays and Estuaries in the San Diego Region, which was distributed for public review on November 10, 2016 (referred to hereinafter as the “Tentative Investigative Order”).

CASQA understands the California Regional Water Quality Control Board, San Diego Region (Regional Water Board) released the Tentative Investigative Order to meet the requirements of the Statewide Trash Amendments to the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan) and the Water Quality Control Plan for Ocean Waters of California (Ocean Plan) (referred to hereafter as “Statewide Trash Amendments”). Since the Tentative Investigative Order is the first such Order implementing the Statewide Trash Amendments for municipalities in California and could be precedent setting, we greatly appreciate the opportunity to comment and the intent of Regional Water Board staff to provide written responses to “significant” comments received.

CASQA recognizes that issuance of a Tentative Investigative Order is consistent with Chapter IV.A.5.a.(1).B of the ISWEBE Plan and Chapter III.L.4.a.(1).B of the Ocean Plan that require the Regional Water Board to issue an investigative order pursuant to Water Code section 13267 or 13383 requiring the MS4 Permittees to submit, within three (3) months from receipt of a final investigative order, written notice stating the compliance option (Track 1 or Track 2) that the permittee chooses to follow to comply with the Statewide Trash Amendments. The Tentative Investigative Order would also require MS4 Permittees, which choose the Track 2 compliance option, to submit an Implementation Plan within 18 months of receiving a final investigative order.

CASQA generally supports the intent of the Tentative Investigative Order to the extent that it is necessary to implement the Statewide Trash Amendments. We provide comments and suggested revisions to address certain issues of particular concern for CASQA and its members with respect to the Tentative Investigative Order as issued, and subsequent incorporation of the Statewide Trash Amendment provisions into MS4 permits. These issues include:

1. Purpose and intent of the Tentative Investigative Order;
2. Clarifications to ensure that the findings and directives within the Tentative Investigative Order are consistent with the Statewide Trash Amendments (especially as they pertain to the differences between Track 1 and Track 2 compliance), including clarification that compliance with either Track 1 or Track 2 provides a compliance pathway for the trash discharge prohibition and meeting water quality objectives; and
3. Utilization of a different approach to address transient encampments.
4. Other recommendations related to technical and monitoring reports and coordination with Caltrans.

Our recommendations are based on lessons learned in other areas of the state with trash management. The order of presentation of our recommendations is based on sequential location of each issue in the Tentative Investigative Order.

### **Issue #1 – Purpose and Intent of Tentative Investigative Order**

As a preliminary matter, CASQA comments to clarify and understand the intent and purpose of the Tentative Investigative Order, and how information submitted in compliance with the order will subsequently be used by the Regional Water Board to further revise the existing MS4 Permit. Based on our review of the Tentative Investigative Order, it appears that the Regional Water Board is seeking to obtain information regarding: (1) which track permittees seek to follow; (2) development of implementation plans if following track 2; (3) how coordination with Caltrans would occur; and, (4) how transient encampments might be addressed. In general, the information sought (except as commented on further below) appears to be appropriately subject to the statutory terms and conditions of Water Code sections 13267 and 13383 combined.

However, CASQA wants to be certain that the Tentative Investigative Order, and plans prepared pursuant to the Tentative Investigative Order, will not be used subsequently to implement the Statewide Trash Amendment provisions without actually revising an implementing permit. For example, Hereby Ordered Directive A.2.f indicates that the Track 2 implementation plan should include a compliance time schedule based on the shortest practicable time to achieve compliance with the trash discharge prohibition. It is imperative that any compliance schedule be adopted directly into the MS4 permit to ensure proper legal protection for permittees while they implement the plans and practices to meet the timeframes contained within the Statewide Trash Amendments.

As indicated in Finding 10, the Statewide Trash Amendments require an implementing permit to require compliance within ten (10) years of the effective date of the implementing permit, but no later than 15 years from the effective date of the Statewide Trash Amendments. Thus, by this language, it is clear that compliance schedule provisions need to be incorporated into the implementing permit, and cannot be implemented through a 13267/13383 order.

In other words, CASQA seeks clarification with respect to the process that the Regional Water Board will undertake after it receives the information requested pursuant to the Tentative

Investigative Order, and how the Regional Water Board will then proceed to implement the Statewide Trash Amendments.

## **Issue #2 – Revisions to Findings to Ensure Consistency with Trash Amendments**

The State Water Resources Control Board (State Water Board) made it clear that one of the primary reasons for developing and adopting Statewide Trash Amendments was to ensure a consistent approach across the state:

*“A consistent statewide approach is needed to control trash discharges into surface waters of the state.”<sup>1</sup>*

*“There is a strong need for a statewide consistency within the Water Boards regarding trash control.”<sup>2</sup>*

*“Waters continue to be impaired by trash, the regulatory control approaches vary, and there is a need for statewide uniformity to control trash.”<sup>3</sup>*

In its Alternatives Analysis, Substitute Environmental Documentation, the State Water Board noted<sup>4</sup>:

*“State Water Board regulations require this draft SED to contain an analysis of range of reasonable alternatives to the project and reasonably foreseeable methods of compliance that could feasibly meet the project objectives and to avoid or substantially reduce any potentially significant adverse environmental impacts. (23 CCR §3777, subd. (b)(3))”*

One of the alternatives analyzed by the State Water Board was the “Regional Water Board Alternative.” Among the reasons the State Water Board determined this was not the preferred approach were:

*“There is, however, the potential that the individual regional water boards would develop different trash water quality objectives and implementation provisions, resulting in a continued lack of statewide consistency. Furthermore, it would be an inefficient use of staff time (and corresponding costs) to develop up to eight different approaches to trash-control in state waters.”*

Following are Findings in the Tentative Investigative Order that are inconsistent with the Statewide Trash Amendments, descriptions of the inconsistencies, and CASQA Recommendations for making the Findings consistent with the Statewide Trash Amendments.

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<sup>1</sup> Agenda Item 8, April 7, 2015 State Water Board Meeting.

<sup>2</sup> Proposed Final Staff Report and proposed Final Trash Amendments, April 7, 2015.

<sup>3</sup> Resolution 2015-0019, Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California, Whereas #6, State Water Board, April 7, 2015.

<sup>4</sup> Revised Proposed Final Staff Report for Trash Amendments, including the Substitute Environmental Documentation, March 26, 2015.

## **Findings 5 and 6: Trash Water Quality Objectives and Discharge Prohibition**

Finding 5 recites the water quality objective for trash and Finding 6 recites the trash discharge prohibition contained within the Statewide Trash Amendments, however the Findings do not include language identifying a compliance pathway as is provided for within the Amendments. In addition, Finding 7 states that the narrative water quality objectives and the discharge prohibitions will be incorporated into the permit, but does not clearly state that the MS4 will be in compliance with those prohibitions and water quality objectives through implementation of Track 1 or Track 2.

**CASQA Recommendation:** Include compliance pathway language that links Finding 6 to Finding 7 and clearly states that permittees in full compliance with Track 1 or Track 2 are deemed to be in compliance with the discharge prohibition and narrative water quality objectives as incorporated into the MS4 Permit.

*Trash Discharge Prohibition. The Trash Amendments established the following discharge prohibition in Chapter III.I.6 of the Ocean Plan and Chapter IV.A.2 of the ISWEBE Plan:*

*The discharge of trash to surface waters of the State or the deposition of trash where it may be discharged into surface waters of the State is prohibited*

*MS4 permittees in full compliance with Track 1 or Track 2 are deemed to be in compliance with the trash discharge prohibition and narrative water quality objectives incorporated into the MS4 permit.*

## **Finding 7: MS4 Permit Implementation of the Trash Amendments**

Finding 7 presents the Track 1 and Track 2 compliance options detailed in the Statewide Trash Amendments. However, the Track 2 language omits some of the Track 2 language within the Statewide Trash Amendments.

Finding 7 also identifies that those MS4 Permittees that choose Track 2 as their compliance option need to submit an Implementation Plan “*subject to approval by the San Diego Water Board.*” However, there is no language that identifies what the process and timing are for the Regional Water Board’s review and approval of the Track 2 Implementation Plans.

**CASQA Recommendations:** Add the omitted language (underlined below) from the Statewide Trash Amendments to the Tentative Investigative Order.

*Track 2: Install, operate, and maintain any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls within either the jurisdiction of the MS4 permittee or within the jurisdiction of the MS4 permittee and contiguous MS4 permittees. The MS4 permittee may determine the locations or land uses within its jurisdiction to implement any combination of controls. The MS4 permittee shall demonstrate that such combination achieves full capture system equivalency. The MS4 permittee may determine which controls to implement to achieve compliance with full capture system*

*equivalency. It is, however, the State Water Board's expectation that the MS4 permittee will elect to install full capture systems where such installation is not cost-prohibitive.*

In addition, clarify the review and approval process and timeline for the Track 2 Implementation Plans.

### **Finding 8: Full Capture System Equivalency**

Finding 8 presents the definition for Full Capture System Equivalency. However, the definition omits some of the language within the Statewide Trash Amendments.

**CASQA Recommendation:** Add the omitted language (underlined below) from the Statewide Trash Amendments to the Tentative Investigative Order.

*Examples of such approaches include, but are not limited to, the following:*

### **Finding 9.a: Land Uses and Locations Requiring Trash Controls – Priority Land Uses**

Finding 9.a details the Priority Land Uses that are to be addressed for controlling trash discharges. However, the language does not clarify that the “Priority Land Uses” are the land use types to be addressed via the Track 1 compliance option.

Pursuant to the Statewide Trash Amendments, the Track 2 compliance option is valid for all land uses within each MS4 Permittee’s jurisdiction over which they have “regulatory control” – “*The MS4 permittee may determine the locations of land uses within its jurisdiction to implement any combination of controls.*” That is, under the Track 2 compliance option, the MS4 Permittees can implement a suite of full capture systems, multi-benefit projects, other treatment controls, or institutional controls throughout their jurisdictions to control trash discharges; they are not constrained by the Priority Land Use definition.

**CASQA Recommendation:** Clarify that the Priority Land Use definition applies to the Track 1 compliance option.

*a. **Priority Land Uses (Track 1 Compliance Option):** Those developed sites, facilities, or land uses (i.e., not simply zoned land uses) within the MS4 permittee’s jurisdiction from which discharges of trash are regulated by the Ocean Plan or ISWEBE Plan as follows:*

### **Finding 9.b: Land Uses and Locations Requiring Trash Controls – Equivalent Alternative Land Uses**

Finding 9.b does not contain the full language from the Equivalent Land Use Provisions in the Statewide Trash Amendments. Finding 9.b omits “*The land use area requested to substitute for a priority land use need not be an acre-for-acre substitution but may involve one or more priority land uses, or a fraction of a priority land use, or both, provided the total trash generated in the equivalent alternative land use is equivalent or greater than the total trash generated from the priority land uses for which substitution is requested.*” The Statewide Trash Amendments

included this language because the State Water Board recognized there is variability in trash generation within the same land use type based on local conditions. Omitting this language reduces the flexibility MS4 Permittees have to define the priority land uses within their jurisdictions using local trash-generation information.

In addition, pursuant to the Trash Amendments, the Equivalent Alternate Land Uses are directly linked and apply to the Priority Land Uses. As a result, Finding 9.b needs to be a subset of Finding 9.a.

**CASQA Recommendations:** Add the omitted language (underlined below) from the Statewide Trash Amendments to the Tentative Investigative Order.

*An MS4 permittee with regulatory authority over priority land uses may issue a request to the San Diego Water Board that the MS4 permittee be allowed to substitute one or more ~~a~~ land uses identified above with ~~an~~ alternate land uses within the MS4 permittee's jurisdiction that generates rates of trash that is equivalent to or greater than the priority land use(s) being substituted. The land use area requested to substitute for a priority land use need not be an acre-for-acre substitution but may involve one or more priority land uses, or a fraction of a priority land use, or both, provided the total trash generated in the equivalent alternative land use is equivalent or greater than the total trash generated from the priority land uses for which substitution is requested. Comparative trash generation rates shall be established through the reporting of quantification measures such as street sweeping and catch basin cleanup records; mapping; visual trash presence surveys, such as the "Keeping America Beautiful Visible Litter Survey"; or other information as required by the San Diego Water Board.*

In addition, the numbering for Finding 9.b should be changed to Finding 9.a.i to clarify that the Equivalent Alternative Land Uses Finding is really a subset of the Priority Land Uses Finding.

### **Finding 11: Monitoring and Reporting**

Finding 11 is inconsistent with the differences in the monitoring and reporting requirements for the two tracks as provided for in the Statewide Trash Amendments. By not including the specific requirements for the Track 1 and Track 2 compliance options, the Tentative Investigative Order leaves the monitoring and reporting requirements ambiguous which could cause unnecessary monitoring and/or reporting by the MS4 Permittees.

**CASQA Recommendation:** Add the omitted language (underlined below) from the Statewide Trash Amendments to the Tentative Investigative Order.

*The MS4 permittees will be required to provide reports to the San Diego Water Board on an annual basis to monitor progress toward achieving full compliance with the trash discharge prohibition. The monitoring and reporting requirements are dependent on the measures elected to be implemented by a MS4 permittee.*

- a. MS4 permittees that elect to comply with the Track 1 compliance option shall provide a report to the Regional Board demonstrating installation, operation, maintenance, and the Geographic Information System- (GIS-) mapped location and drainage area served by its full capture systems on an annual basis.
- b. MS4 permittees that elect to comply with the Track 2 compliance option shall develop and implement monitoring plans that demonstrate the effectiveness of the full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls, and compliance with full capture system equivalency. Monitoring reports shall be provide on an annual basis and shall include GIS-mapped locations and drainage area served for each of the full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls installed or utilized by the MS4 permittee.

**Issue #3: Utilization of a Different Approach to Address Transient Encampments.**

Litter or trash is virtually ubiquitous and its sources and transport to receiving waters are well beyond that which happens to enter and exit a MS4 or over which MS4 permittees have control. That is why in adopting the Statewide Trash Amendments, the State Water Board recognized:

*“Implementation of the proposed Trash Amendments will occur through National Pollution [sic] Discharge Elimination System Storm Water Permits (municipal separate storm sewer system phase I and phase II permits, California Department of Transportation permit, industrial general permit, and construction general permit), waste discharge requirements (WDRs), and waivers of WDRs.”<sup>5</sup>*

*“The water quality objective shall be implemented through the prohibition of discharge and other implementation requirements through permits issued pursuant to section 402, subsection (p), of the Clean Water Act, waste discharge requirements, or waivers of waste discharge requirements.”<sup>6</sup>*

**Finding 9.d: Specific Land Uses or Locations Determined by the San Diego Water Board**

Although Finding 9.d recognizes that the Regional Water Board can determine that other specific land uses or locations generate substantial amounts of trash, it does not recognize that some of the sources may be nonpoint sources, which would be addressed through other regulatory mechanisms such as Waste Discharge Requirements (WDRs) or conditional waivers of WDRs. In fact, the State Water Board recognized this within its response to comments to the Statewide Trash Amendments in response to a request to add requirements to address homeless encampments [Emphasis added]:

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<sup>5</sup> Agenda Item 8, April 7, 2015 State Water Board Meeting.

<sup>6</sup> Resolution 2015-0019, Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California, Whereas #12, State Water Board, April 7, 2015.

Response 6.5 - Although the implementation provisions for compliance with the prohibition of discharge focus on trash discharge via storm water, it is well recognized that trash is transported to surface waters via both point and non-point sources. Statewide nonpoint source discharges of trash cause less of an impact to state water than point sources; however, at the local or regional level nonpoint sources can be a substantial source of trash. These areas may include high usage campgrounds, picnic areas, beach recreation areas, and marinas, which can be subject to waste discharge requirements (WDRs) or conditional waivers of WDRs. These types of areas would be assessed by the Water Boards to determine if trash controls are necessary for compliance with the proposed Trash Amendments. For such areas determined to require trash controls within a WDR or waiver of a WDR, management practices could include enforcement of litter laws, education, recycling programs, more or better placement of trash receptacles, and/or more frequent servicing of trash receptacles. (Ocean Plan Amendment at III.L.3; Part I ISWEBE at IV.A.4.). The Trash Amendments are more land-use focused, and in the future the State Water Board could address non-point source trash in a more focused program as suggested by the commenter.

Response 10.6 - Statewide the transport of trash through storm water systems to receiving waters is a substantial source of trash. The Trash Amendments specify provisions for NPDES permits issued pursuant to Federal Clean Water section 402(p). Statewide, nonpoint source discharges of trash cause less of an impact to state water than do point sources. However, at the local or regional level, nonpoint sources can be a substantial source of trash. “Dischargers without NPDES permits, WDRs, or waivers of WDRs must comply with [the] prohibition of discharge.” (Ocean Plan Amendment at III.I.6.d; Part I ISWEBE at IV.A.2.d.) .....

Response 34.2 - Although the implementation provisions for compliance with the prohibition of discharge focus on trash discharge via storm water, it is well recognized that trash is transported in surface waters via both point and non-point sources. .... Additionally, the permitting authority has the discretion to determine other land use or locations generate substantial amounts of trash and require trash controls. The permitting authority may also issue WDRs or waivers of WDRs to the land owner for other trash generating areas or facilities to address trash.

CASQA fails to see how the findings provide justification for requiring plans to address transient encampments. The language of the finding references information in general regarding trash generated at transient encampments, but it does not explain or justify why the MS4 permittees should be responsible for such trash. CASQA recommends that Finding 9.d and Directive A.4 (see below) be removed from the Tentative Investigative Order for the following reasons:

- Transient encampments are non-point sources of trash and should not be included in the Regional MS4 Permit that addresses point sources. Nonpoint sources should, instead, be regulated under individual Waste Discharge Requirements (WDR) or Conditional Waivers of WDR.

- The Statewide Trash Amendments did not intend for the MS4 Permittees to address trash sources within receiving waters, which they do not have “Regulatory Control” over.
- MS4 permittees often do not have access to properties needed to do cleanups of transient encampments; thus, all of the land-owners and key responsible parties would need to be involved<sup>7</sup>.
- There are legal, social, and political complications in managing/cleaning up areas with transient encampments that necessarily require the involvement of a number of other agencies (social services, police, health care, etc.)<sup>8</sup>.
- The Tentative Investigative Order did not provide a robust technical analysis demonstrating why the specific land use or location needed to be regulated, nor did it identify the responsible parties who have regulatory control over the range of land uses<sup>9</sup>.

### **CASQA Recommendations:**

Add the omitted language from the Statewide Trash Amendments to the Tentative Investigative Order.

*The Trash Amendments (Ocean Plan Chapter III.L.2.d and ISWEBE Plan Chapter IV.A.3.d) provide the San Diego Water Board with the authority to determine that specific land uses or locations (e.g. parks, stadia, schools, campuses, or roads leading to landfills) generate substantial amounts of trash in addition to the priority land uses defined above. In the event the San Diego Water Board makes that determination, the San Diego Water Board may require the MS4 permittees to comply with the requirements of the Trash Amendments with respect to such land uses or locations.*

Delete Finding 9.d from the Tentative Investigative Order and, instead issue a WDR or a Conditional Waiver of a WDR, to the appropriate land owner(s).

~~*Specific Land Uses or Locations Determined by the San Diego Water Board: The Trash Amendments (Ocean Plan Chapter III.L.2.d and ISWEBE Plan Chapter IV.A.3.d) provide the*~~

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<sup>7</sup> MS4 permittees in the Los Angeles Region that have addressed trash associated with transient encampments have done so under TMDLs as a non-point source in conjunction with the other landowners and non-point sources in the vicinity of the waterbody. Programs implemented solely by the MS4 were ineffective at addressing the trash associated with transient encampments because of the lack of access to all areas and the inability of the MS4 to address underlying issues on those properties that encouraged transient populations (e.g., vegetation that provided shelter).

<sup>8</sup> Trash associated with transient populations is usually considered private property. Notice must be provided prior to cleaning up trash and law enforcement is generally required to remove transients prior to cleaning up trash to ensure what is picked up is not personal property. Depending on the location, it may not be possible to require transients to leave the area, thereby preventing trash removal.

<sup>9</sup> In fact, it is unclear what data and/or information from the San Diego River Park Foundation’s 2013, 2014, and 2015 State of the River Reports and Executive Officer Summary Report (May 14, 2014) was used to make this determination.

~~San Diego Water Board with the authority to determine that specific land uses or locations generate substantial amounts of trash in addition to the priority land uses defined above. In the event the San Diego Water Board makes that determination, the San Diego Water Board may require the MS4 permittees to comply with the requirements of the Trash Amendments with respect to such land uses or locations. The San Diego Water Board has evaluated the San Diego River Park Foundation's 2013, 2014, and 2015 State of the River reports, and information received in regard to Item 5 on the May 14, 2014 Board meeting agenda pertaining to trash generated by transient encampments in the San Diego River watershed and related water quality issues. Based on this information the San Diego Water Board has determined that transient encampments in the San Diego River watershed are generating substantial trash in amounts that adversely affect beneficial uses or cause nuisance in the San Diego River. This Order requires MS4 permittees in the San Diego River Watershed Management Area to develop plans to address trash runoff from the relevant areas of land affected by transient encampments through Track 1 or Track 2 controls as stipulated in the Trash Amendments (Ocean Plan Chapter III.L.2.d and ISWEBE Plan Chapter IV.A.3.d).~~

#### **Hereby Ordered Directive A.4: Transient Encampments in the San Diego River**

Directive A.4 requires the MS4 permittees discharging to the San Diego River Watershed to submit a description how the trash generated from transient encampments will be addressed. For the reasons mentioned above for Finding 9.d, CASQA recommends deleting this Directive.

#### **CASQA Recommendations:**

Delete Directive A.4:

~~Transient Encampments in the San Diego River. MS4 permittees discharging to the San Diego River watershed (Cities of San Diego, Santee, El Cajon, La Mesa, and County of San Diego), must submit, no later than eighteen (18) months from the date of this Order [INSERT DATE], a description of how trash generated from transient encampments in the San Diego River Watershed Management Area will be addressed.~~

#### **Issue #4: Other Recommendations**

#### **Finding 14: Basis for Requiring Technical and Monitoring Reports**

Finding 14 states that the technical and monitoring reports are needed to provide information, however, the language does not specify which of the items relate to Track 1 and/or Track 2. Without the specific requirements, the Tentative Investigative Order leaves the monitoring and reporting requirements ambiguous and could cause unnecessary monitoring and/or reporting by the MS4 Permittees.

**CASQA Recommendation:** Revise language in Finding 14 to specify which items relate to Track 1 and/or Track 2.

*The technical and monitoring reports required under this Investigative Order are needed to provide information to the San Diego Water Board regarding (a) the measures each MS4 permittee is electing to implement (i.e. ~~Track 1 or Track 2~~) within its jurisdiction to comply with the trash discharge prohibition (Track 1 and Track 2), (b) the plan that will be implemented by each MS4 permittee to comply with the trash discharge prohibition (Track 2), (c) the interim milestones that each MS4 permittee will achieve within its jurisdiction (Track 1 and Track 2), (d) the schedules to achieving the interim milestones, and full compliance with the trash discharge prohibition (Track 1 and Track 2), and (e) the monitoring (Track 2) and reporting (Track 1 and Track 2) that will be implemented to demonstrate progress toward achieving full compliance with the trash discharge prohibition.*

### **Hereby Ordered Directive A.2: Track 2 Implementation Plans**

Directive A.2.a contains a footnote (Footnote 3) that is inconsistent with the Statewide Trash Amendments.

Directive A.2.e incorrectly links Priority Land Uses with the Track 2 compliance option. Priority Land Uses/Equivalent Alternate Land Uses are only relevant if a MS4 Permittee selects the Track 1 compliance option. Pursuant to the Statewide Trash Amendments, the Track 2 compliance option is valid for all land uses within each MS4 Permittees jurisdiction over which they have “regulatory control” (see also the comments provided under Finding 9.a and Finding 9.b).

#### **CASQA Recommendations:**

Revise Footnote 3 in Directive A.2.a:

*~~Controls include, but are not limited to, full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls treatment controls and institutional controls, as defined in ~~the~~ Appendix D to the Water Quality Control Plan for Ocean Waters of California ~~California Ocean Plan~~ and Appendix E of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California.~~*

Delete Directive A.2.e:

*~~Requests by MS4 permittees, if any, for authorization to substitute a Priority Land Use described in Finding 9 above with an Equivalent Alternate Land Use that generates rates of trash equivalent to, or greater than, the Priority Land Use being substituted. The MS4 permittees must provide data or information which establishes that trash generation rates from the Alternate Land Use(s) are greater than the Priority Land Use(s) being substituted.~~*

### **Hereby Ordered Directive A.3: Coordination with Caltrans**

Directive A.3 requires each MS4 permittee to submit, no later than eighteen (18) months from the date of the Tentative Investigative Order, a description of how the permittee will coordinate their efforts to install, operate, and maintain full capture systems, multi-benefit projects, and

other controls with Caltrans. Instead of requiring a separate submittal, it is recommended that the coordination efforts be included within the annual reports.

**CASQA Recommendations:**

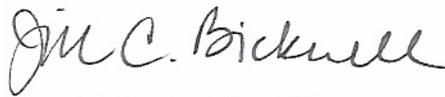
Revise Directive A.3:

*Each MS4 permittee subject to this Order must submit, as a part of the annual report ~~no later than eighteen (18) months from the date of this Order~~ [INSERT DATE], a description of how MS4 permittees will coordinate their efforts to install, operate, and maintain full capture systems, multi-benefit projects, and other controls with Caltrans in significant trash generating areas and/or priority land uses, as applicable.*

Lastly, in order to allow for more robust public input, CASQA recommends that the San Diego Regional Water Board hold a public hearing prior to the adoption of the Order to discuss the comments received and corresponding modifications.

Thank you again for the opportunity to comment on Tentative Investigative Order No. R9-2016-0205. If you have any questions, please contact CASQA Executive Director Geoff Brosseau at (650) 365-8620.

Sincerely,



Jill Bicknell, Chair  
California Stormwater Quality Association

cc: Jonathan Bishop, State Water Board  
Gayleen Perreira, State Water Board  
Leo Cosentini, State Water Board  
Bill Hereth, State Water Board  
CASQA Board of Directors  
CASQA Executive Program Committee  
CASQA Policy and Permitting Subcommittee